



THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Appl. No. : 10/082,958 Confirmation No.: 5005  
Appellants : David C. Loda  
Filed : February 26, 2002  
TC/A.U. : 2144  
Examiner : Bengzon, Greg C.

Docket No. : EH-10645(02-179)  
Customer No. : 34704

Mail Stop Appeal Brief-Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313

APPEAL BRIEF

Dear Sir:

This Appeal Brief is submitted in support of the Notice of Appeal filed on February 20, 2006.

REAL PARTY IN INTEREST

06/27/2006 BABRAHA1 00000061 210279 10082958

The real party in interest is the ~~02 FC:1402~~ ~~03 FC:1403~~ ~~500.00 DA~~ ~~1000.00 DA~~ Technologies Corporation.

RELATED APPEALS AND INTERFERENCES

There are no other appeals or interferences known to Appellant or Appellant's legal representative which will directly affect or be directly affected by or have a bearing on the Board of Appeals decision in the instant appeal.

STATUS OF CLAIMS

Claims 1-19 are rejected and are on appeal. A true copy of the claims on appeal is attached hereto in Appendix A.

### STATUS OF AMENDMENTS

No amendment was filed subsequent to the Examiner's final rejection.

### SUMMARY OF CLAIMED SUBJECT MATTER

In one aspect of Appellant's disclosure, an integrated system (Appellant's specification, page 3, line 11-page 10, line 30) broadly comprises a portal (Id., page 5, line 29-page 6, line 22); a server (Id., page 3, line 29-page 6, line 10) communicating with the portal; at least one wireless local area network (Id., page 4, line 8-page 5, line 10) in communication with the server; at least one mobile device (Id., page 4, line 24 - page 5, line 28) in wireless communication with the at least one wireless local area network; and a means for enabling two-way communications between the portal and the server (Id., page 3, line 11-page 10, line 30).

In another aspect of Appellant's disclosure, a method for providing remote, interactive visual analysis of an apparatus (Id., page 3, line 11-page 10, line 30) broadly comprises the steps of providing a portal (Id., page 5, line 29-page 6, line 22), the portal in communication with at least one electronic device (page 4, lines 12-22; page 7, lines 1-15); providing a server (Id., page 3, line 29-page 6, line 10) in two-way communication with the portal via the internet; integrating the server into a wireless local area network (Id., page 4, line 8-page 5, line 10); connecting at least one mobile device (Id., page 4, line 24 - page 5, line 28) to the local area network; providing visual data from at least one visual device (Id., page 4, line 30-page 5, line 4) to the at least one mobile device;

and receiving the visual data at the at least one electronic device.

GROUND OF REJECTIONS TO BE REVIEWED ON APPEAL

There are two pending rejection(s) of claims 1-19, all of which are being appealed, as set forth below.

- (1) Claim 13 is rejected under 35 U.S.C. §112, second paragraph, for allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention.
- (2) Claims 1-19 are rejected under 35 U.S.C. §103(a) as being unpatentable over Charles (U.S. Patent No. 6,449,103) in view of Pugliese et al. (U.S. Publication No. 20010044751).

## ARGUMENTS

### I. CLAIM 13 IS DEFINITE AND PATENTABLE UNDER 35 U.S.C. §112, SECOND PARAGRAPH

Appellant asserts claim 13 is patentable and definite under 35 U.S.C. 112, second paragraph.

In framing this rejection the Examiner stated in part the following:

"Claim 13 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 13 recites 'a movable plattform'. The Examiner notes that said limitation may cause undue confusion or misinterpretation. The Applicant Specifications define said platform to be any entity that is movable. (Applicant's Specification Page 4)."  
(Final Office action dated September 20, 2005, page 2).

During patent examination, the pending claims must be given the broadest reasonable interpretation consistent with the specification. See, MPEP §2173.05(a); See also, *In re Morris*, 127 F.3d 1048, 1054 (Fed. Cir. 1997); *In re Prater*, 415 F.2d 1393 (CCPA 1969); MPEP §§2111-2111.01. When the specification states the meaning that a term in the claim is intended to have, the claim is examined using that meaning, in order to achieve a complete exploration of the Appellant's invention and its relation to the prior art. See, MPEP §2173.05(a); *In re Zletz*, 893 F.2d 310 (Fed. Cir. 1989).

If the claims, read in light of the specification, reasonably apprise those skilled in the art both of the utilization and scope of the invention, and if the language is as precise as the subject matter permits, the statute [35 U.S.C.

112, second paragraph] demands no more. See, MPEP §2173.05(a); See also, *Shatterproof Glass Corp. v. Libby Owens Ford Co.*, 758 F.2d 613 (Fed. Cir. 1985).

Appellant's claim term "movable platform" may at least be found at page 4, lines 5-8 of Appellant's specification, which states as follows:

"In another embodiment, server 22 may be located upon a movable platform. The movable platform may be a boat, an airplane, a spacecraft, an automobile, a truck, or any other entity that is movable."

Appellant asserts the Examiner has selectively chosen language carefully gauged to mischaracterize and misinterpret the meaning behind the claim term "movable platform". If the Examiner had written Appellant's specification, Appellant would agree the Examiner's definition taken alone, "any entity that is movable", may cause misinterpretation. However, Appellant asserts that the specification as written provides both clarity and precision with respect to the claim term "movable platform". The phrase "or any other entity that is movable" must be read in context. When reading the entire sentence, one of ordinary skill in the art recognizes the "or any other entity that is movable" refers to other movable platforms that are similar to "a boat, an airplane, a spacecraft, an automobile, a truck,..." without rendering inoperable Appellant's claimed invention. Appellant's claim 13, when read in light of the specification, reasonably apprises one of ordinary skill in the art both the utilization and scope of the invention as precisely as the subject matter permits.

Appellant respectfully requests the Board withdraw the rejection under 35 U.S.C. §112, second paragraph, against claim 13 and determine claim 13 is allowable.

II. CLAIMS 1-19 ARE PATENTABLE OVER THE COMBINATION OF U.S.P.N.  
6,449,103 TO CHARLES IN VIEW OF U.S. PUBL. NO. 20010044751  
TO PUGLIESE UNDER 35 U.S.C. §103(A)

Appellants assert that independent claims 1 and 14 are each individually patentable and not obvious over U.S.P.N. 6,449,103 to Charles in view of U.S. Publ. No. 20010044751 to Pugliese. By virtue of their dependency upon independent claims 1, 9 and 17, Applicants assert that dependent claims 2-13 and 15-19, are also each individually patentable and not obvious over U.S.P.N. 6,449,103 to Charles (hereinafter "Charles") in view of U.S. Publ. No. 20010044751 to Pugliese (hereinafter "Pugliese").

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. See, §MPEP 2142; *In re Vaeck*, 947 F.2d 488 (Fed. Cir. 1991).

Appellant asserts the Examiner has failed to make a *prima facie* case of obviousness as required under 35 U.S.C. §103. Appellant asserts the Examiner has failed to at least meet the requirement that the prior art references when combined must teach or suggest all the claim limitations.

First, Appellant's contend the Examiner's reliance upon the

teachings of Pugliese fail to correct the deficiencies present in Charles. The Examiner relies upon Pugliese as follows:

"Pugliese disclosed an online shopping portal that allows registered users and merchants to communicate via an interactive video communication system via a website. Pugliese disclosed of users being able to remotely operate the video camera in order to view products from the merchant store."

(Final Office action dated September 20, 2005, page 4).

Pugliese teaches using mounted, stationary cameras at least at paragraphs [0380]-[0384] and FIGS. 27 and 28. Pugliese does not teach or suggest using "at least one mobile device" as recited in Appellant's independent claim 1, "at least one visual device" as recited in Appellant's independent claim 14, and described at least at page 4, line 24 - page 5, line 28 of Appellant's specification. The Examiner fails to appreciate the fact that Pugliese does not teach a mobile device but rather teaches and illustrates a mounted, stationary camera. Moreover, Pugliese fails to suggest or even provide the requisite motivation to turn the mounted, stationary camera into a mobile camera that a person may carry.

The Examiner fails to properly consider the meaning of Appellant's claim terms "at least one mobile device" and "at least one visual device" according to Appellant's supporting disclosure at least at page 4, line 24 - page 5, line 28. As a result, Pugliese does not correct the deficiencies of Charles.

Secondly, Appellant stands by the position that the Examiner's motivation to combine Charles in view of Pugliese is erroneous as Charles and Pugliese are not analogous art. Appellant's contend one of ordinary skill in the art would not have the requisite motivation to combine Charles in view of Pugliese.



In explaining how Charles and Pugliese are analogous art, the Examiner stated the following:

"Charles and Pugliese are analogous art because they present concepts and practices regarding electronic distribution, processing, and viewing of visual data via a remote visual device. At the time of the invention it would have been obvious to combine the teachings of Pugliese regarding website portals that host interactive video communications into the method and apparatus of Charles. *The said combination would enable the method and apparatus of Pugliese to manage an Internet website for coordinating viewing of the visual data, and to allow users to remote operate the visual device by issuing commands via said website.* The suggested motivation for doing so would have been, as Pugliese suggests (Pugliese - Paragraph 6), so that users at the remote site may be able to hold interactive sessions with and obtain input from knowledge experts at other remote sites."

(Final Office action dated September 20, 2005, page 5).

It is noteworthy that in the cited text (with emphasis added) the Examiner relies upon Pugliese for "coordinating viewing of visual data, and to allow users to remote operate the visual device by issuing commands via said website", which is not the proper use of the "at least one mobile device" as recited in Appellant's independent claim 1 and "at least one visual device" as recited in Appellant's independent claim 14.

Appellant contends Charles teaches so much that Charles does not teach anything truly meaningful with which to provide the requisite motivation to effectively combine with Pugliese for purposes of constructing a rejection under 35 U.S.C. §103. Charles is directed to an omnidirectional wide angle optical system, which is associated with a sensor, camera, projector, medical instrument, surveillance system, flight control system, robotic command and control or sensing system, home entertainment system, conference area, virtual reality suite, theater, or similar article (See Abstract). Charles succinctly

describes his invention using approximately 60 columns of information and 180 figures.

Pugliese does not teach, suggest or motivate one of ordinary skill in the art to seek out the optical system taught by Charles. Pugliese does not provide any teaching, suggestion or motivation to utilize a hand held or portable visual device as contemplated in Charles. In fact, Pugliese teaches the opposite, that is, the visual devices of Pugliese are part of a video management system integrated within a typical store location as illustrated in FIGS. 27 and 28 and described in paragraphs [0380] through paragraphs [0384]. Pugliese teaches, suggests and motivates one of ordinary skill in the art to utilize stationary, mounted visual devices. Moreover, upon reading the disclosure of Pugliese, one of ordinary skill in the art would not in turn seek out the Charles reference because Charles does not provide any teaching, suggestion or motivation to use its optical system for online shopping.

Appellant contends the motivation to combine Charles and Pugliese is found upon reading Appellant's disclosure and claims and not from either Charles or Pugliese.

Appellant respectfully requests the Board withdraw the rejection under 35 U.S.C. §103 against claims 1-19 and determine claims 1-19 are allowable.

CONCLUSION

For the reasons set forth above, the honorable Board of Appeals is hereby requested to reverse the Examiner's rejection of claims 1-19 based on all of the cited references discussed above.

CLAIMS APPENDIX

Attached hereto is a Claims Appendix A containing all claims in the application and which form the basis for this appeal.

EVIDENCE APPENDIX

None.

SPECIAL PROCEEDINGS APPENDIX

None.

APPEAL BRIEF FEE

Please charge Deposit Account No. 21-0279 in the amount of \$1,950.00 to cover the Appeal Brief fee, Oral Hearing fee, and request for an extension of two months of time fee.

If any other fees are required in connection with this case, it is respectfully requested that they also be charged to Deposit Account No. 21-0279.

Respectfully submitted,

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By

  
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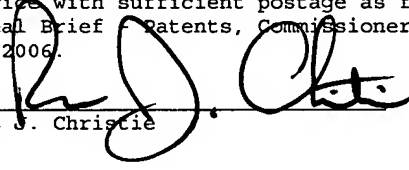
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I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: "Mail Stop Appeal Brief - Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313" on June 20, 2006.

  
Ross J. Christie

Appendix A  
Claims Appendix

1. An integrated system comprising:  
a portal;  
a server communicating with said portal;  
at least one wireless local area network in communication with said server;  
at least one mobile device in wireless communication with said at least one wireless local area network; and  
a means for enabling two-way communications between said portal and said server.
2. The integrated system of claim 1, wherein said portal may be accessed by at least one mobile device in communication with said portal.
3. The integrated system of claim 1, wherein said at least one local area network is physically integrated with said server.
4. The integrated system of claim 1, wherein said at least one local area network is in wireless communication with said server.
5. The integrated system of claim 2, wherein said at least one mobile device comprises a PC tablet.
6. The integrated system of claim 1, further comprising a borescope and said borescope being in communication with said mobile device.

7. The integrated system of claim 6, wherein said borescope communicates with said mobile device via a data feed wire.

8. The integrated system of claim 7, wherein said mobile device comprises at least one USB port for receiving said data feed wire.

9. The integrated system of claim 2, further comprising a visual data device in communication with said at least one mobile device.

10. The integrated system of claim 19, wherein said stereographic viewing system comprises a stereo image lens in communication with said at least one mobile device.

11. The integrated system of claim 10, wherein said at least one mobile device comprises at least one USB port for receiving data from said stereo image lens.

12. The integrated system of claim 1, wherein said server is addressable by a unique IP address and wherein said server hosts at least one web page.

13. The integrated system of claim 1, wherein said server is located on said at least one movable platform.

14. A method for providing remote, interactive visual analysis of an apparatus, comprising the steps of:

providing a portal, said portal in communication with at least one electronic device;

providing a server in two-way communication with said portal via the internet;

integrating said server into a wireless local area network; connecting at least one mobile device to said local area network;

providing visual data from at least one visual device to said at least one mobile device; and

receiving said visual data at said at least one electronic device.

15. The method of claim 14, comprising the additional step of issuing control commands to said at least one visual device from said at least one electronic device.

16. The method of claim 15, wherein said control commands are issued in response to receiving said visual data by said at least one electronic device.

17. The method of claim 16, further comprising altering an orientation of said visual device in accordance with said control commands.

18. The method of claim 14, wherein said receiving of said visual data is limited by a community affiliation of said one or more electronic devices.

19. The integrated system of claim 9, wherein said visual data device comprises a stereographic viewing system.

Appendix B  
Evidence Appendix

None.



Appendix C  
Related Proceedings Appendix

None.